

MEMO ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	Docket No: 21-cv-04050-KMK
Ariel Dan Barkai	:
Plaintiff,	:
- against -	:
George Mendez, et al.	:
Defendants	:
-----X	

Granted.

Date: 2/8/2022

SO ORDERED



KENNETH M. KARAS U.S.D.J.

MOTION TO WITHDRAW PARTIAL CLAIMS RELATED TO DUE PROCESS
VIOLATIONS AGAINST GEORGE HOEHMAN AND THE
TOWN OF CLARKSTOWN

Ariel Barkai
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Introduction

Ariel Barkai, the plaintiff, respectfully submits this motion to withdraw parts of my claims related to Due Process and specifically against George Hoehman and the Town of Clarkstown pursuant to my Section 1983 Civil Suit complaint in the aforementioned case, Barkai v Mendez et al..

Preliminary Statement

Today I finally was able to come to terms for the sale of my family home in the town of Clarkstown which I rushed to put on the market subsequent to the continuation of the malicious prosecution waged against me by Tom Walsh and the RCDAO which started with his bringing charges against me with no probable cause for launching an expressly protected complaint related to the death of my beloved late mother, Dr. Eileen Barkai of blessed memory who died due to medical negligence in Montefiore Nyack Hospital two years ago this coming Thursday and continued up until my unlawful arrest with no probable cause based on a lie to fabricate evidence in the form of a criminally manufactured true threat that led to my arrest and four day jail stay in late August of 2021.

In the end, I spoke directly to the buyers when they came to my house and shared with them my family's experience in this town we called home since 1974 and all the wonderful experiences we had in our life here as loving family. I recalled with fond memories my childhood and told them how much my mother, who grew up in the Brownsville section of Brooklyn, loved this home and this town. For her, she had achieved the American dream. She lived a happy life and lived in security in no small part due to the work of the many fine men and women of the Clarkstown Police Department. I too, as a graduate of Clarkstown North, take pride in having grown up here and maintain life long friendships in this town. The way it ended was a disaster and that disaster was the result of Montefiore Nyack Hospital, Tom Walsh and his criminal organization and his henchmen like Bob Nuendorf and a few bad cops who negligently or criminally exercised their sworn duty to deprive me of my Constitutional rights acting under color of law.

When my mother died and Dan Ryan of the OPD came to my house and handed me charges in the name of "The People of the State of New York" as I will submit in my motion in opposition and the facts of which I shared via email with "The Judge" as Tom

Walsh so arrogantly calls himself, the shock and desperation of being charged by my neighbors, my family, my friends and my classmates from Clarkstown North and SUNY Albany having buried my mom and who could not be with me to mourn due to the pandemic and instead in whose name Walsh implemented his criminal conspiracy in conjunction with his cohorts in the hospital to silence my right to complain freely by charging me with a crime for speaking on her behalf was more than I could bear and I went into the attic and contemplated taking my life until my moms cats came upstairs and I sat on the floor and cried with them. But it was not “The People of the State of New York” who charged me, desecrating my G-d given right to mourn in peace and defiling my mothers memory by not allowing me to speak with family and friends about her loss because I was so traumatized anew by the fact that I was facing criminal charges (a position I swore to my parents and myself I would never put myself in again and did uphold for almost 20 years until Walsh hunted me), it was Tom Walsh who violated his oath of office and showed favor to his friends at the hospital over a man who buried his mother in issues his own office had previously determined was a “civil suit” when it was I that went to him seeking legal intervention. It is a trauma I still carry to this day, even as I write this letter.

But I will not do to the people of this town, of whom I am one and have been since 1974 the lowlife move that Tom Walsh did to me by holding “the town” collectively responsible for the conduct of a few bad actors. I am a better man than that criminal and his gang of thugs masking as a district attorney’s office. I also consider the words of Officer Owen Davies who came to my home last year telling me he received a call that I called the police and he “came to see if you were ok.” I told him what had happened, taping the whole thing and he said “well its like Target. You may have a bad experience with one of the sales people but you wont stop shopping there. We are always here to help.” These weren’t words. I believe that. The guy came to my house in the middle of the night and as we tragically saw in Manhattan just yesterday could have found his own well-being at risk (though obviously not the case in my instance but speaks volumes of his dedication to his oath and this community and there are many, many others in CPD as well). I respect the Clarkstown Police Department and the good work they do and I will not hold them collectively responsible for the conduct of a few bad actors.

Equally important, I think it would be disingenuous of me to sell my home to a very lovely couple moving here to raise their 6-month-old daughter with plans to grow their family in Upper Nyack telling them what a wonderful town this is and whom I truly

pray will find as much love, happiness and security in this home as it has given my family and then once they move in I turn around and sue that very same town. From a legal sense it could be viewed as a form of materially fraudulent misrepresentation and while I am not withdrawing for fear that they would sue me, I am doing so because whatever happens, I still have to wake up with myself and when I look in the mirror I still have to face myself and what I told them is how I really feel. I don't know how Anthony Culianos, George Mendez, Robert Nuendorf, Kristen DeLorenzo, Tom Nguyen and Mark Geller and whoever told RSD that I was "on my way to shoot the place up" from the RCDAO's office are capable of lying about a person under oath or to affect false criminal charges that can have such a debilitating effect on the life of another human or even his freedom but I am not them and one day they will be forced to answer before this Court and ultimately before the Almighty. For me, I can only follow my own conscious and my conscious tells me to withdraw claims against the Town of Clarkstown related to due process violations as I can not hold my hometown responsible for the acts of some people who may live or work here.

Last week there was an officer involved shooting in Yonkers and the Police Chief went on record stating they would leave no stone unturned in the investigation including "reviewing all body cameras". It struck me as not just odd but ironic that Yonkers, whose officers get paid a fraction of CPD, should have body cameras yet in Clakrstown we don't. Had Mendez and Culianos been fitted with cameras a sizeable section of evidence that is costing this Town money paying Wilson Elsner and Harris Beach could have been saved and put into youth programs or senior programs. The energy and time of this Court and its sizeable case load would also not have to wade through pages of legal filings when a 30 second clip would allow this Court all the visual hard data facts needed to make a ruling not to mention my own mental health and well being could have been spared. It is bad policy and fiscally irresponsible for the town not to equip its officers with the best and most cost effective equipment that could save the Town and its police a lot of money not to mention its prestige in the event they should be sued based on false claims that film could exonerate them of. It could also insure that an innocent man doesn't die in a manner under question where justice would be predicated on a thug like 'Tony Culianos' who has already proven by the evidence submitted to this Court, that he has no compunction about lying on his police reports.

Should this Court accept this motion, and relinquish my claims against the Town of Clarkstown and any claims to Due Process violations thus focusing the body of my claims in both matters, Mendez & Nuendorf on my First and Fourth Amendment Claims

and my Sixth Amendment Claim against Mendez, I ask that Eliza Schiebel inform George Hoehman that he has been withdrawn as a defendant so that when I call him before I leave to implore him simply as a lifelong resident of this town that based on my experience he find a way to get body cameras on CPD officers for their own safety and the safety of people in this town for the objective of full transparency so all are protected and the town does not need to waste precious resources on paying lawyers in White Plains, he will take the call. I like George Hoehman. I think he is a good and reasonable man whom my mom voted for and when I share with him my experience as a resident and why I think it is necessary and why I think it makes sense, I am certain he will listen and consider the request on its merits.

CONCLUSION

For the reasons stated above, Plaintiff moves to request that this Court accept Plaintiffs motion to withdraw claims against “The Town of Clarkstown” (but not individual officers named) and to withdraw Due Process violation claims against George Hoehman and the relief sought pertaining to said claims including body cameras, dash cameras and CCRB.

Dated: Upper Nyack, New York

23 January 2022

By: /S/ Ariel Barkai

Ariel Barkai

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